

RESOLUTION NO. 2009 - 39
MAHDIA VILLAS AT SEDONA ROUGE DEVELOPMENT AGREEMENT

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY, TO ENTER INTO A DEVELOPMENT AGREEMENT, PURSUANT TO ARIZONA REVISED STATUTES § 9-500.05 (AS AMENDED), WITH SEDONA ROUGE, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, GOVERNING THE CONDITIONS, TERMS AND REQUIREMENTS FOR THE FUTURE DEVELOPMENT OF PROPERTY KNOWN AS “MAHDIA VILLAS AT THE SEDONA ROUGE HOTEL AND SPA” AS TO CONSTRUCTION AND MANAGEMENT OF AFFORDABLE HOUSING UNITS, INCLUDING THE RECORDING OF A LAND USE RESTRICTION AGREEMENT (LURA)

WHEREAS:

- Arizona Revised Statutes § 9-500.05 (as amended) authorizes a municipality, by ordinance or resolution, to enter into development agreements relating to real property located in the city limits, and
- A development agreement shall be consistent with the general or community plan of the city applicable to the property on the date of its execution, and
- Such agreement may specify or otherwise relate to its duration, permitted uses and densities, building heights, preservation of historic or environmentally sensitive lands, phasing or time of construction of improvements, or any other matters relating to the development of the property, and
- The burdens of the development agreement are binding on, and the benefits of the development agreement inure to, the parties to the agreement and all their successors in interest and assigns by recording a copy of the agreement in Yavapai County, Arizona, within ten (10) days of its execution, such recordation constituting notice of its terms and conditions, and
- A development agreement may be amended, or cancelled in whole or in part, by mutual consent of the parties to the development agreement, or by their successors in interest or assigns, and
- Sedona Rouge, LLC, (“Developer”) and the City of Sedona, an Arizona municipal corporation (“City”), desire to enter into a development agreement in connection with Developer’s proposed planned development project for certain real property consisting of approximately 1.6 acres adjoining the existing Sedona Rouge Hotel and Spa on 95 Goodrow Lane, Sedona, Arizona (“Property”) and,
- Developer and the City (collectively, the “Parties”), desire to agree to certain conditions, terms and requirements for the construction and management of affordable housing units

on the property and by also setting forth certain development rights and assurances on Developer's behalf, and

- The City Council will be asked, along with approval of the Development Agreement, to approve a zoning map change for the Property from RS-10a (Single Family Residential) to L (Lodging)(ZC2008-4) to allow for development consistent with the Development Agreement,

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, THAT:

1. *Development Agreement Approval.* The form development agreement negotiated by the Parties to accomplish the above-stated purposes (the "Agreement"), incorporated herein as Exhibit A, is consistent with the general and community plan of the City of Sedona as it is currently applicable to the property, and is hereby approved. The agreement is in the best interests of the City and the citizens hereof, and meets the requirements and form of ARS § 9-500.05 (as amended). The Mayor is hereby authorized to execute and enter into the Agreement on behalf of the City upon final approval as to form by the City Attorney.
2. *Recordation.* Not later than ten (10) days after the Mayor executes the Agreement, the City shall record a copy with the Yavapai County Recorder pursuant to ARS § 9-500.05.D.
3. *Collateral Action by the City.* The Agreement is to be interpreted with, and subject to, any conditions applied by the City in approval of the zone change (ZC2008-4), and the Agreement shall not be operative and in effect until council action on those items has been completed, and, if either is rejected, shall be null and void

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 27th day of October, 2009.

CITY OF SEDONA

By _____
Rob Adams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney